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By: 

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

In re Application of: Hillman et al.

JUL 08 2002

Title: NEW ANNEXIN BINDING PROTEIN

Serial No.: 09/808,885

Filing Date: March 14, 2001

TECH CENTER 1600/2900

Examiner: A. Harris

Group Art Unit: 1692

Box Non-Fee Amendment
Commissioner for Patents
Washington, D.C. 20231

TRANSMITTAL FEE SHEET

COPY OF PAPERS
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Sir:

Transmitted herewith are the following for the above-identified application:

1. Return Receipt Postcard; and
2. Response to Restriction Requirement (2 pp.).

The fee has been calculated as shown below.

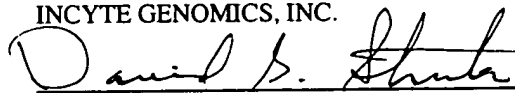
Claims	Claims After Amendment		Claims Previously Paid For		Present Extra	Other Than Small Entity Rate	Fee		Additional Fee(s)
Total	19	-	20			x\$18.00		\$	0
Indept.	1	-	3			x\$84.00		\$	0
First Presentation of Multiple Dependent Claims						+280.00		\$	0
Total Fee:								\$	0

☒ No additional Fee is required.☐ Please charge Deposit Account No. 09-0108 in the amount of : \$ _____

The Commissioner is hereby authorized to charge any additional fees required under 37 CFR 1.16 and 1.17, or credit overpayment to Deposit Account No. 09-0108. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

INCYTE GENOMICS, INC.

Date: June 26, 2002

David G. Streeter, Ph.D.

Reg. No. 43,168

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Election / #6

Docket No.: PF-0354-2 DIV

J 7.17.02

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RESPONSE TO RESTRICTION REQUIREMENT UNDER 35 U.S.C. 121

Sir:

This paper is responsive to the Restriction Requirement and Request for Election dated May 30, 2002, setting a one (1) month term for response.

In the Restriction Requirement, the Examiner requested Applicants to elect one of the following inventions:

Group I (claims 1 and 2) drawn to an isolated polypeptide.

✓ Group II (claims 3, 5, 6, 8, 11, 12 and 14-17) drawn to an antibody.

Group III (claims 4, 7, 9, 18 and 19) drawn to a diagnostic test and a method of diagnosing a condition or disease comprising administering an antibody.

✓ Group IV (claims 10 and 13) drawn to a method of preparing antibodies.

Applicants hereby elect, with traverse, to prosecute Group II, which includes and is drawn to Claims 3, 5, 6, 8, 11, 12 and 14-17. Applicants submit that claims 4, 7, 9-10, 13 and 18-19 of Groups III and IV are methods of making and/or using the antibodies of Group II that depend from and are therefore of the same scope as the claims of Group II that could be examined together with the claims of Group II without undue burden.

Applicants therefore request reconsideration of the Restriction Requirement and examination of claims 3-19 in Groups II-IV. In the event that the Examiner maintains the Restriction Requirement, the

Examiner is reminded that claims 4, 7, 9-10, 13 and 18-19 of Groups III and IV are methods of use of the compositions of Group II that depend from and are of the same scope as the claims of Group II, and are subject to rejoinder on allowance of the claims of Group II in accordance with *Ochiai and Brouwer* regardless of their restriction (see Commissioner's Notice in the Official Gazette of March 26, 1996). Applicants reserve the right to prosecute the subject matter of non-elected claims in subsequent divisional applications.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. 09-0108.

Respectfully submitted,
INCYTE GENOMICS, INC.

Date:

June 26, 2002

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